

**ASSEMBLY BILL**

**No. 2537**

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**Introduced by Assembly Member V. Manuel Pérez**

February 24, 2012

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An act to amend Sections 48902 and 48915 of, and to add Section 48900.05 to, the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

AB 2537, as introduced, V. Manuel Pérez. Pupil discipline: suspensions and expulsions.

(1) Existing law requires the principal of a school or the principal's designee to notify the appropriate law enforcement agencies of the county or city in which the school is situated of certain unlawful acts committed by a pupil that may result in suspension, expulsion, or criminal liability of the pupil, as specified. Existing law provides that a willful failure to make a report required by these provisions is an infraction punishable by a fine of not more than \$500.

This bill would authorize, rather than require, the principal or the principal's designee to notify the appropriate law enforcement agencies under those circumstances, and would delete the provision making a violation of that reporting requirement an infraction.

(2) Existing law authorizes the governing board of a school district to expel a pupil upon the recommendation of a principal, superintendent of schools, or by a hearing officer, as specified, if it finds that the pupil committed specified acts. Existing law requires that decision to expel a pupil to be based on a finding that other means of correction are not feasible or have repeatedly failed to bring about proper conduct, or due to the nature of the act, the presence of the pupil will cause a continuing danger to the physical safety of the pupil or others, or both.

This bill would instead require that the decision to expel a pupil be based on both of those findings.

(3) Existing law requires the principal or superintendent of schools to immediately suspend and recommend expulsion of a pupil who he or she determines has committed certain acts at school or at a school activity off school grounds, and requires the governing board of the school district to order the pupil expelled upon finding that the pupil committed the act. The acts for which a pupil is required to be immediately suspended and expelled consist of the possessing, selling, or otherwise furnishing of a firearm, brandishing a knife at another person, unlawfully selling a controlled substance, committing or attempting to commit a sexual assault, and possession of an explosive.

This bill would delete the requirement that the principal or superintendent of schools immediately suspend a pupil for any of those acts. The bill would limit the requirement of mandatory expulsion to pupils who have been determined to have possessed a firearm or an explosive at school or at a school activity off school grounds. The bill would authorize, but not require, a principal or superintendent of schools to make a recommendation for expulsion for any of the other acts described above.

This bill would declare the intent of the Legislature that these provisions grant to school districts the discretion to suspend or expel a pupil for any of the acts enumerated in these provisions, except as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 48900.05 is added to the Education Code,  
2     to read:  
3     48900.05. It is the intent of the Legislature that the acts  
4     enumerated in this article form the exclusive bases for the  
5     imposition of suspension or expulsion. The Legislature intends  
6     that this article grant to school districts the discretion to suspend  
7     or expel a pupil for any of the acts enumerated in this article, except  
8     those set forth in subdivision (c) of Section 48915.  
9     SEC. 2. Section 48902 of the Education Code is amended to  
10    read:

1 48902. (a) The principal of a school or the principal's designee  
2 ~~shall, prior to~~ *may, before* the suspension or expulsion of any pupil,  
3 notify the appropriate law enforcement authorities of the county  
4 or city in which the school is situated, of any acts of the pupil that  
5 may violate Section 245 of the Penal Code.

6 (b) The principal of a school or the principal's designee ~~shall~~  
7 *may*, within one schoolday after suspension or expulsion of any  
8 pupil, notify, by telephone or any other appropriate method chosen  
9 by the school, the appropriate law enforcement authorities of the  
10 county or the school district in which the school is situated of any  
11 acts of the pupils that may violate subdivision (c) or (d) of Section  
12 48900.

13 (c) Notwithstanding subdivision (b), the principal of a school  
14 or the principal's designee ~~shall~~ *may* notify the appropriate law  
15 enforcement authorities of the county or city in which the school  
16 is located of any acts of a pupil that may involve the possession  
17 or sale of narcotics or of a controlled substance or a violation of  
18 Section 626.9 or 626.10 of the Penal Code. The principal of a  
19 school or the principal's designee ~~shall~~ *may* report any act specified  
20 in paragraph (1) or (5) of subdivision (c) of Section 48915  
21 committed by a pupil or nonpupil on a schoolsite to the city police  
22 or county sheriff with jurisdiction over the school and the school  
23 security department or the school police department, as applicable.

24 (d) A principal, the principal's designee, or any other person  
25 reporting a known or suspected act described in subdivision (a) or  
26 (b) is not civilly or criminally liable as a result of making any  
27 report authorized by this article unless it can be proven that a false  
28 report was made and that the person knew the report was false or  
29 the report was made with reckless disregard for the truth or falsity  
30 of the report.

31 ~~(e) The willful failure to make any report required by this section~~  
32 ~~is an infraction punishable by a fine to be paid by the principal or~~  
33 ~~principal's designee who is responsible for the failure of not more~~  
34 ~~than five hundred dollars (\$500).~~

35 (f)

36 (e) The principal of a school or the principal's designee reporting  
37 a criminal act committed by a schoolage individual with  
38 exceptional needs, as defined in Section 56026, ~~shall~~ *may* ensure  
39 that copies of the special education and disciplinary records of the  
40 pupil are transmitted, as described in paragraph ~~(9)~~ (6) of

1 subsection (k) of Section 1415 of Title 20 of the United States  
2 Code, for consideration by the appropriate authorities to whom he  
3 or she reports the criminal act. Any copies of the pupil's special  
4 education and disciplinary records may be transmitted only to the  
5 extent permissible under the federal Family Educational Rights  
6 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

7 SEC. 3. Section 48915 of the Education Code is amended to  
8 read:

9 48915. (a) Except as provided in subdivisions (c) and (e), the  
10 principal or the superintendent of schools ~~shall~~ *may* recommend  
11 the expulsion of a pupil for any of the following acts committed  
12 at school or at a school activity off school grounds, ~~unless the~~  
13 ~~principal or superintendent finds that expulsion is inappropriate,~~  
14 ~~due to the particular circumstance:~~

15 (1) Causing serious physical injury to another person, except  
16 in self-defense.

17 (2) Possession of any knife or other dangerous object of no  
18 reasonable use to the pupil.

19 (3) Unlawful possession of any controlled substance listed in  
20 Chapter 2 (commencing with Section 11053) of Division 10 of the  
21 Health and Safety Code, except for the first offense for the  
22 possession of not more than one avoirdupois ounce of marijuana,  
23 other than concentrated cannabis.

24 (4) *Unlawfully selling a controlled substance listed in Chapter*  
25 *2 (commencing with Section 11053) of Division 10 of the Health*  
26 *and Safety Code.*

27 ~~(4)~~

28 (5) Robbery or extortion.

29 ~~(5)~~

30 (6) Assault or battery, as defined in Sections 240 and 242 of the  
31 Penal Code, upon any school employee.

32 (7) *Brandishing a knife at another person.*

33 (8) *Committing or attempting to commit a sexual assault as*  
34 *defined in subdivision (n) of Section 48900 or committing a sexual*  
35 *battery as defined in subdivision (n) of Section 48900.*

36 (9) *Selling or otherwise furnishing a firearm.*

37 (b) Upon recommendation by the principal, superintendent of  
38 schools, or by a hearing officer or administrative panel appointed  
39 pursuant to subdivision (d) of Section 48918, the governing board  
40 may order a pupil expelled upon finding that the pupil committed

1 an act listed in subdivision (a) or in subdivision (a), (b), (c), (d),  
2 or (e) of Section 48900. A decision to expel shall be based on a  
3 finding of ~~one or~~ both of the following:

4 (1) Other means of correction are not feasible or have repeatedly  
5 failed to bring about proper conduct.

6 (2) Due to the nature of the act, the presence of the pupil causes  
7 a continuing danger to the physical safety of the pupil or others.

8 (c) The principal or superintendent of schools ~~shall immediately~~  
9 ~~suspend, pursuant to Section 48911, and~~ shall recommend  
10 expulsion of a pupil that he or she determines has committed ~~any~~  
11 ~~either~~ of the following acts at school or at a school activity off  
12 school grounds:

13 (1) ~~Possessing, selling, or otherwise furnishing~~ *Possession of* a  
14 firearm. This subdivision does not apply to an act of possessing a  
15 firearm if the pupil had obtained prior written permission to possess  
16 the firearm from a certificated school employee, which is concurred  
17 in by the principal or the designee of the principal. This subdivision  
18 applies to an act of possessing a firearm only if the possession is  
19 verified by an employee of a school district.

20 (2) ~~Brandishing a knife at another person.~~

21 (3) ~~Unlawfully selling a controlled substance listed in Chapter~~  
22 ~~2 (commencing with Section 11053) of Division 10 of the Health~~  
23 ~~and Safety Code.~~

24 (4) ~~Committing or attempting to commit a sexual assault as~~  
25 ~~defined in subdivision (n) of Section 48900 or committing a sexual~~  
26 ~~battery as defined in subdivision (n) of Section 48900.~~

27 (5)

28 (2) Possession of an explosive.

29 (d) The governing board shall order a pupil expelled upon  
30 finding that the pupil committed an act listed in subdivision (c),  
31 and shall refer that pupil to a program of study that meets all of  
32 the following conditions:

33 (1) Is appropriately prepared to accommodate pupils who exhibit  
34 discipline problems.

35 (2) Is not provided at a comprehensive middle, junior, or senior  
36 high school, or at any elementary school.

37 (3) Is not housed at the schoolsite attended by the pupil at the  
38 time of suspension.

39 (e) Upon recommendation by the principal, superintendent of  
40 schools, or by a hearing officer or administrative panel appointed

1 pursuant to subdivision (d) of Section 48918, the governing board  
2 may order a pupil expelled upon finding that the pupil, at school  
3 or at a school activity off of school grounds violated subdivision  
4 (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section  
5 48900.2, 48900.3, or 48900.4, and ~~either~~ *both* of the following:

6 (1) That other means of correction are not feasible or have  
7 repeatedly failed to bring about proper conduct.

8 (2) That due to the nature of the violation, the presence of the  
9 pupil causes a continuing danger to the physical safety of the pupil  
10 or others.

11 (f) The governing board shall refer a pupil who has been  
12 expelled pursuant to subdivision (b) or (e) to a program of study  
13 which meets all of the conditions specified in subdivision (d).  
14 Notwithstanding this subdivision, with respect to a pupil expelled  
15 pursuant to subdivision (e), if the county superintendent of schools  
16 certifies that an alternative program of study is not available at a  
17 site away from a comprehensive middle, junior, or senior high  
18 school, or an elementary school, and that the only option for  
19 placement is at another comprehensive middle, junior, or senior  
20 high school, or another elementary school, the pupil may be  
21 referred to a program of study that is provided at a comprehensive  
22 middle, junior, or senior high school, or at an elementary school.

23 (g) As used in this section, “knife” means any dirk, dagger, or  
24 other weapon with a fixed, sharpened blade fitted primarily for  
25 stabbing, a weapon with a blade fitted primarily for stabbing, a  
26 weapon with a blade longer than 3 ½ inches, a folding knife with  
27 a blade that locks into place, or a razor with an unguarded blade.

28 (h) As used in this section, the term “explosive” means  
29 “destructive device” as described in Section 921 of Title 18 of the  
30 United States Code.